

REMARKS

This Amendment as noted previously is in response to non-prior art rejections in Office Action mailed October 6, 2004. The purpose is to render the claims allowable except for the prior art rejections presented in the Appeal. Claim 2 is amended to obviate both a claim objection and a claim rejection under § 112. The claim objection is an informality concerning which Applicant has accepted the Examiner's instruction. The claim rejection is believed obviated by replacing the term "container filler" with the term "beverage company." The latter is found in the specification at page 13, line 6. Claim 3 is amended in two particulars based upon two claim objections. The first is that Applicant has attempted to accept the suggestion of the Examiner to indicate a predicate for "the beverage container." In the second, wording has been revised to avoid in lines 14-17 a simple repetition of earlier limitations in the claim.

Most claims have also been provisionally rejected under the nonstatutory double patenting rejection that has been judicially created. When and if claims are allowed in the copending Application Number 10/360,488, a terminal disclaimer will be provided as instructed by the Examiner.

It is believed that assuming the above amendments meet the Examiner's claim objections and 30 U.S.C. § 112 rejections, claims 1-19 now stand rejected based solely on the cited prior art under 35 U.S.C. § 103. If not, undersigned counsel remains available for a telephone interview if doing so will facilitate the resolution of any remaining technicalities such as may be the proper subject of

an Examiner's Amendment with the concurrence of undersigned counsel. In the event that such an interview would be of use, the Examiner has respectfully invited the telephone undersigned counsel at the telephone number listed below.

Finally, the Examiner is invited to note that the address of undersigned counsel has changed again and to use the address listed below in the future.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing paper has been deposited this 19th day of September, 2005 with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 which is a date prior to the expiration of the set period, as extended if necessary, and I therefore assert timely filing of the foregoing paper in accordance with 37 CFR § 1.8.

Respectfully submitted,

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